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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/217,873	12/21/1998	MARK RAPAICH	450.221US1	3830

32719 7590 01/13/2003

GATEWAY, INC.  
14303 GATEWAY PLACE  
ATTENTION: MARK WALKER (MAIL DROP SD-21)  
POWAY, CA 92064

EXAMINER

NATNAEL, PAULO M

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 01/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/217,873

Applicant(s)

RAPACH, MARK

Examiner

Paulos M. Natnael

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 December 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-11.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

The newly added phrase to independent claims 1,6,and 11, "via computational calculation" does not help the claims substantiionally, because the claims already were rejected although they contained the word "compuatationally" in the claims as "digital processor computationally employing a corrective algorithm". Thus, adding the phrase "via computational calculation" only makes the language of the claims redundant.

Therefore, the claims will be rejected similarly as shown in previous office action/Final rejection using Aleksic et al under 35 USC 102 (e) and using Aleksic in view of Warren, and Aleksic in view of Margulis both under 35 USC 103(a).

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## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed December 24, 2002 have been fully considered but they are not persuasive. Response follows.

#### **Applicant's Arguments**

a) Applicant respectfully points out that "calculation" is defined as the action or process of determining by a mathematical process, which is not consistent with looking up a value in a lookup table as is done in the cited Aleksic reference (see, e.g. Webster's Third New International Dictionary, Unabridged). Applicant believes this amendment more clearly distinguishes the invention as claimed from the cited art.

b) "...Because the computational calculation of the present claims is not present in the cited reference, a rejection under 35 USC 102(e) is believed to be improper."

c). Applicant again objects to a single reference 35 USC 103 (a) rejection, and pursuant to MPEP § 2144.03 requests that references showing all elements of the rejected claimed be presented.

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Examiner's Response

a) Firstly, please note that Applicant has failed to respond to the contention of the previous Office Action (mailed on 10/23/02) that referred to Page 6 of the instant application's specification.

For the sake of clarity, it is being repeated here, since Applicant is arguing substantially the same point.

Page 6 of the specification discloses the following passage: "In a further embodiment the mathematical algorithm comprises an empirically determined least squares fit polynomial equation, determined for each display device. The algorithm comprises a lookup table having a gamma values similarly determined at each of a plurality of signal levels dependent upon display device characteristics". The algorithm, thus, is the same mathematical algorithm the Applicant is claiming, and a lookup table is comprised in such algorithm by Applicant's own admission.

However, note also that Aleksic does not rely on the prior art lookup table method. In fact, Aleksic "provides a means to avoid using a lookup table, thus both reducing the cost of the computer, and avoiding the time of accessing the lookup table. Instead the present invention provides a useful approximation to the luminance (Y) gamma curve using inexpensive hardware components." [emphasis added] (see col. 1, lines 49-54; also columns 3-6 and FIGs. 3 and 4 of Aleksic)

Therefore, again, this particular argument is totally unpersuasive, because the instant application also makes use of a lookup table comprised in the mathematical algorithm, as does the reference of Aleksic (prior art, (FIG.2)). In other words, the prior art in Aleksic already

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teaches what Page 6 of the instant Application discloses. But, more importantly, as mentioned above, Aleksic unlike the instant application teaches avoiding a look-up table.

b) See columns 3-6 and FIGs. 3 and 4, where Aleksic discloses several transfer functions used in the gamma correction circuits of FIGs. 3 and 4.

c) The Margulis et al. reference was inadvertently left out from the heading on page 4 of the previous Office Action (of October 23, 2002), although the Margulis et al. reference was rightly and accurately referred to as a modification to Aleksic on page 5. The rejection of Claims 4 and 9 under 35 USC § 103 (a), therefore, was based on Aleksic in view of Margulis et al., and was not intended as a "well known" statement or "Official Notice", as the Applicant argues invoking MPEP § 2144.03.

Examiner regrets the inconvenience that might have caused the Applicant in that regard.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Paulos Natnael** whose telephone number is **(703) 305-0019**. The examiner can normally be reached on **Monday through Friday** from **6:30 a.m.** to **3:00 p.m.**

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **John Miller**, can be reached on **(703) 305-4795**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is **(703) 305-3900**.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9314, (for formal communications intended for entry)

**or:**

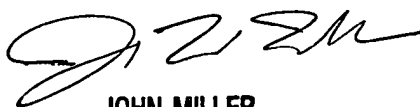
(703) 872-9314 (for informal or draft communications, please label "PROPOSED" OR "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, V.A. Sixth Floor (Receptionist).

**Paulos M. Natnael**

January 6, 2003

*Pnw*

  
**JOHN MILLER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**